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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,655	07/27/2001	Robert S. Horen	A-69479/RMA	8491

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EXAMINER
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TRAN, NGHI V

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,655

Applicant(s)

HOREN ET AL.

Examiner

Nghi V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 25-54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4, 7-17, 19, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belknap et al., U.S. Patent Number 5,586,264 (hereinafter Belknap) and RealNetworks, in view of "RealSystem G2 Production Guide", <http://service.real.com/help/library/guides/productiong27/realpgd.htm> (hereinafter Real).

3. Taking claim 1 as an exemplary claim, Belknap teaches a server computer (item 10) for use in a computer network having at least one client computer, the server computer characterized in that the server computer: sends media assets over said computer network to said client computer (column 2, lines 52-67), the server computer coupled to at least one file system (figure 1).

However, Belknap fails to teach a file system organized into a plurality of asset groups, each asset group comprising at least one media asset, and the media asset

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sharing storage medium bandwidth and storage space on the server computer that is reserved for the asset group to which the media asset belongs.

In a communication system, Real discloses a file system organized into a plurality of asset groups, each asset group comprising at least one media asset, and the media asset sharing storage medium bandwidth and storage space on the server computer that is reserved for the asset group to which the media asset belongs [chapter 7, pgs.94-95 i.e. Real does not use the exact term "sharing". However, Real discloses assets are organized in a group based on the connection speed. For example, when assets are organized in a group based on the connection speed, then it may be sharing bandwidth for playing out assets].

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Belknap in view of Real by organized at least one media asset into a plurality of asset groups and sharing bandwidth and space based on the media asset because this feature lowers bandwidth consumption. One of ordinary skill in the art at the time of application's invention would have been motivated to modify Belknap in view of Real in order to stream a certain number of simultaneous media assets at any time.

4. Taking claim 2 as an exemplary claim, Belknap fails to teach each media asset belongs to only one asset group.

In a communication system, Real discloses each media asset belongs to only one asset group (chapter 7, pages 94-95).

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It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Belknap in view of Real by specifying each media asset belongs to only one asset group because this feature avoids the conflict among the asset groups. One of ordinary skill in the art at the time of application's invention would have been motivated to modify Belknap in view of Real in order to increase the bandwidth without any cost.

5. Taking claim 4 as an exemplary claim, Belknap fails to teach that the asset group is limited to a maximum bit rate.

In a communication system, Real discloses the asset group is limited to a maximum bit rate at which any single media asset belonging to the asset group can be played out, further comprising an attribute which indicates the maximum bit rate (chapter 3, pages 33-34).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Belknap in view of Real by limiting the asset group to a maximum bit rate because this feature will share the bandwidth among other asset groups. One of ordinary skill in the art at the time of the invention would have been motivated to modify Belknap in view of Real in order to decrease the bottleneck and to guarantee the streaming at any given time.

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6. Taking claim 7 as an exemplary claim, Belknap further discloses an asset group policy placement module that places an asset group within the file system (figures 8-10).

7. Taking claim 8 as an exemplary claim, Belknap further discloses the asset group policy module distributes the asset group across multiple file systems (figures 8-10).

8. With respect to claim 9, Belknap further teaches a media asset placement policy module that places media assets within the asset group (figures 8-10).

9. Taking claim 10 as an exemplary claim, Belknap clearly teaches the media asset placement policy module places media assets within asset groups (figures 8-10).

However, Belknap fails to teach the media asset placement policy module places media assets within asset groups based on the reserved storage medium bandwidth and storage space.

In a communication system, Real discloses the media assets place in the asset groups based on the reserved storage medium bandwidth and storage space (chapter 7, pages 94-95).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Belknap in view of Real by placing media assets in asset groups based on the reserved storage medium bandwidth and storage with the media asset placement policy module because this feature can be done automatically

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or manually by users to place media assets into the asset groups that could be lower bandwidth consumption. One of ordinary skill in the art at the time of the invention would have been motivated to modify Belknap in view of Real in order to increase the flexibility of the system or the user friendly that any users could be able to place the media assets into asset groups.

10. With respect to claim 12, Belknap further teaches the media asset includes an asset selected from the set consisting of an audio, text, graphics, image, symbol, video, information item or token, and combinations thereof (column 1, lines 63-67 i.e. digital formats such as DVI, JPEG and MPEG).

11. With respect to claim 13, Belknap further teaches media asset comprises an audio, a video, or an audio-video media asset (column 1, lines 63-67 i.e. digital formats such as DVI, JPEG and MPEG).

12. With respect to claim 14, Belknap clearly teaches server computer comprises a mass storage subsystem (figure 1).

However, Belknap fails to teach the file system organized into the plurality of asset groups is defined in a mass storage subsystem.

In a communication system, Real discloses the file system organized into said plurality of asset groups (chapter 7, pages 94-95).

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It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Belknap in view of Real by organized at least one media asset into a plurality of asset groups within a mass storage subsystem because this feature lowers bandwidth consumption with a mass storage subsystem. One of ordinary skill in the art at the time of the invention would have been motivated to modify Belknap in view of Real in order to stream a certain number of simultaneous media assets with a mass storage subsystem at any time.

13. With respect to claim 15, Belknap further teaches mass storage subsystem comprises at least one hard disk drive (item 16).

14. With respect to claim 16, Belknap further teaches the mass storage subsystem comprises a plurality of hard disk drives (column 29, lines 33-41).

15. Taking claim 17 as an exemplary claim, claim 17 is also rejected for the same reason set forth in claims 2 above.

16. Claims 19 and 21-23 are also rejected for the same reason set forth in claims 4, 7-8, and 10, and 17 above.

17. Claims 3, 5-6, 11, 18, 20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over both Belknap and Real as applied claims 1 and 17 above, and further



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in view of RealNetworks, "RealServer Administration Guide",

<http://service.real.com/help/library/guides/g270/realsrvr.htm> (hereinafter Administration).

18. Taking claim 3 as an exemplary claim, both Belknap and Real fail to teach the asset group is limited to a maximum number of simultaneous payouts.

In a communication system, Administration discloses the asset group is limited to a maximum number of simultaneous payouts for the media assets contained within the asset group and further comprises an attribute that designates the number of simultaneous payouts (pages 209-211).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify both Belknap and Real, and further in view of Administration by limiting the asset group to a maximum number of simultaneous payouts because this feature enable the server to lower threshold of the connections. One of ordinary skill in the art at the time of the invention would have been motivated to modify both Belknap and Real, and further in view of Administration in order to avoid bottleneck and system crash.

19. Taking claim 5 as an exemplary claim, both Belknap and Real fail to teach the asset group is associated with a guaranteed possible payouts value that guarantees the number of payouts from each asset belonging to the asset group assuming no other asset is being played out at the same time, further comprising an attribute which indicates the guaranteed possible payouts value.

In a communication system, Administration discloses the asset group is associated with a guaranteed possible payouts value that guarantees the number of payouts from each asset belonging to the asset group assuming no other asset is being played out at the same time, further comprising an attribute which indicates the guaranteed possible payouts value (pages 209-211).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify both Belknap and Real, and further in view of Administration by associating the asset group with a guaranteed possible payouts value because this feature increases QoS such as reliability. One of ordinary skill in the art at the time of the invention would have been motivated to modify both Belknap and Real, and further in view of Administration in order to avoid bottleneck or system crash at any given time.

20. Taking claim 6 as an exemplary claim, both Belknap and Real fail to teach a default guaranteed possible payouts value.

In a communication system, Administration discloses a default guaranteed possible payouts value (pages 209-211 i.e. "If it is 0 or blank, RealServer uses the number of streams specified by your license").

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify both Belknap and Real, and further in view of Administration by adding a default guaranteed possible payouts value because this feature increases QoS such as reliability by automatically setting possible payout value

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when it has not been setting yet. One of ordinary skill in the art at the time of the invention would have been motivated to modify both Belknap and Real, and further in view of Administration in order to avoid bottleneck or system crash when users forgot to set the guaranteed possible playlouts value.

21. With respect to claim 11, Belknap teaches the media asset placement policy module. In addition, Real teaches the placement domain of the domain of the media asset to the asset group distribution of storage space and storage bandwidth.

However, both Belknap and Real fail to teach the media asset placement policy module restricts the placement domain of the domain of the media asset to the asset group distribution of storage space and storage bandwidth.

In a communication system, Administration discloses restricts the access to content by limiting the amount of bandwidth that can be in use and limiting the number of clients that can connect (chapter 14).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify both Belknap and Real, and further in view of Administration by restricting the placement domain of the domain of the media asset to the asset group distribution of storage space and storage bandwidth because this feature uses to load balancing the bandwidth. One of ordinary skill in the art at the time of the invention would have been motivated to modify both Belknap and Real, and further in view of Administration in order to share the bandwidth among the asset groups.

22. Claim 18 is also rejected for the same reason set forth in claims 3 and 17 above.

23. Claim 20 is also rejected for the same reason set forth in claims 5-6 and 17 above.

24. With respect to claim 24, both Belknap and Real teach a server computer for use in a client server computer architecture, the server sending media assets over a computer network to a client computer, the server having at least one file system organized into a plurality of asset groups, each asset group comprising a plurality of media assets, wherein the plurality of media assets share storage medium bandwidth and storage space on the server computer that is reserved for the asset group to which the plurality of media assets belong (as discussed in claim 1 above), wherein each media asset belongs to only one asset group (as discussed in claim 2 above), wherein each asset group is limited to a maximum bit rate at which any single media asset belonging to the asset group can be played out, further comprising an attribute which indicates the maximum bit rate (as discussed in claim 4 above).

However, both Belknap and Real fail to teach each asset group is limited to a number of maximum simultaneous playouts for the media assets contained within the asset group and further comprises an attribute that designates the number of simultaneous playouts, and each asset group is associated with a default guaranteed possible playouts value that guarantees the number of playouts from each asset

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belonging to the asset group assuming no other asset is being played out at the same time, further comprising an attribute which indicates the guaranteed possible playouts value.

In a communication system, Administration discloses each asset group is limited to a number of maximum simultaneous playouts for the media assets contained within the asset group and further comprises an attribute that designates the number of simultaneous playouts (as discussed in claim 3 above), and each asset group is associated with a default guaranteed possible playouts value that guarantees the number of playouts from each asset belonging to the asset group assuming no other asset is being played out at the same time, further comprising an attribute which indicates the guaranteed possible playouts value (as discussed in claims 5 and 6 above).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify both Belknap and Real, and further in view of Administration by limiting the asset group to a maximum number of simultaneous playouts and associating the asset group with a default guaranteed possible playouts value because those features improve QoS such as lowering the bandwidth. One of ordinary skill in the art at the time of the invention would have been motivated to modify both Belknap and Real, and further in view of Administration in order to avoid bottleneck without purchased a bigger bandwidth.

### ***Response to Arguments***

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25. Applicant's arguments filed May 04, 2005 have been fully considered but they are not persuasive because of the following reasons:

26. Belknap teaches a server computer (item 10) for use in a computer network having at least one client computer, the server computer characterized in that the server computer: sends media assets over said computer network to said client computer (column 2, lines 52-67), the server computer coupled to at least one file system (figure 1).

However, Belknap fails to teach a file system organized into a plurality of asset groups, each asset group comprising at least one media asset, and the media asset sharing storage medium bandwidth and storage space on the server computer that is reserved for the asset group to which the media asset belongs.

In a communication system, Real discloses a file system organized into a plurality of asset groups, each asset group comprising at least one media asset, and the media asset sharing storage medium bandwidth and storage space on the server computer that is reserved for the asset group to which the media asset belongs [chapter 7, pgs.94-95 i.e. Real does not use the exact term "sharing". However, Real discloses assets are organized in a group based on the connection speed. For example, when assets are organized in a group based on the connection speed, then it may be sharing bandwidth for playing out assets].

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Belknap in view of Real by organized at least one

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media asset into a plurality of asset groups and sharing bandwidth and space based on the media asset because this feature lowers bandwidth consumption. One of ordinary skill in the art at the time of application's invention would have been motivated to modify Belknap in view of Real in order to stream a certain number of simultaneous media assets at any time.

27. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

28. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination

of Belknap in view of Real, by organized at least one media asset into a plurality of asset groups and sharing bandwidth and space based on the media asset, lowers bandwidth consumption because assets are organized in a group based on the connection speed.

29. In response to applicant's argument that Belknap teaches away from storing an entire asset in an asset group for each asset. In this case, the Examiner does not agree because Belknap teaches just a way to partition into stripes or segments distributed to multiple storage location. However, Belknap does not teach away from storing an entire asset in an asset group for each asset.

30. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F. 2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F. 2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicant obviously attacks references individually without taking into consideration based on the teaching of combinations of references.

### ***Conclusion***

31. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi V. Tran whose telephone number is (571) 272-4067. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ZARNI MAUNG  
SUPERVISORY PATENT EXAMINER